

August 4, 1986

Mr. Darvel Cook
1891 North 1500 West
Vernal, Utah 84078

RE: S/E Acct. No. 6B

Dear Mr. Cook:

Field examinations conducted by our office and by your water commissioner, Charman Justice, have revealed that the measuring device on your ditch is inadequate. The measuring device needs to be within a reasonable distance from the headgate to make it possible to stabilize the flow of water for the regulating of water flow. Section 73-5-4, Utah Code Annotated, 1953, states: "Every person using water in this state shall construct or install and maintain a substantial headgate, cap, valve, or other controlling works, weir flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the State Engineer may approve."

The relocation on your measuring device must be made within thirty (30) days of receipt of this order. Your commissioner is directed to inspect your measuring device for compliance with this order and to post and close your diversion if your measuring device is not relocated to within a reasonable distance from the diversion point and in working order as specified above. The statute further states: "if the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct or install such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the State Engineer, the State Engineer may forbid the use of water until the user thereof shall comply with his requirement."

You are further advised that Section 73-1-14, Utah Code Annotated, 1953, states: "Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, headgate, weir, casing, valve, cap or other appliance for the diversion, apportionment, measurement, or regulation of water while in the discharge of his duties, is guilty of a misdemeanor, and is also liable in damages to any person injured by such unlawful act."

In addition to the above order, state statutes further states that, "The salary and expenses of such commissioner or commissioners and all other expenses of distribution...and such other expenses as are deemed necessary by the state engineer, shall be born pro-rata by the users of water from such river system or water source, upon a schedule to be fixed by the state engineer, based on the established rights of each water user, and such pro-rata share shall be paid by each water user to the state engineer in advance on or before the 1st of May each year, and upon failure so to do, the state engineer may create a lien upon the water right affected by filling a notice of lien in the office of the county recorder in the county where the water is diverted may forbid the use of water by any such delinquent....may bring an action in the district court for such unpaid expense and salary...."

In addition to the state statute, at this years water distribution meeting, held on February 11, 1986 in Lapoint, Utah, the membership voted to deliver no water to those who are delinquent in their water payments. You are hereby notified that your account is unpaid and delinquent since the 1985 assessment to the amount of \$27.07 as of July 1986.

You are therefore, ORDERED to rectify this situation within 30 days or your use of water under this account will be prohibited.

If you have any questions, contact Kent Jones, Distribution Engineer, 533-7228, or Bob Leake, Area Engineer, 781-0770, Ext. 330.

Sincerely yours.

Robert L. Morgan, P. E.
State Engineer

RLM:KJ

cc: Bob Leake, Area Engineer, Vernal
Charmin Justice, Lapoint, Utah - *mailed 8/4/86*
Kent Jones, Directing Engineer, Distribution
Arthur McKee, P. O. Box 93, Lapoint, Utah 48076